

Understanding the Living Trust

by Gary Villnow

What is a Living Trust?

The Living Trust is a document drafted by an individual, referred to as a Grantor, for the purpose of managing assets during the Grantor's lifetime and for directing the distribution of the Grantor's assets after the Grantor's death.

A Living Trust directs the appointment of a Trustee to manage the trust assets during the life of the Grantor. In many cases the Grantor will also be the Trustee. The Grantor will also appoint alternate Trustees to manage and distribute the trust assets if the Grantor dies, becomes incapacitated or resigns as Trustee.

The Grantor will provide directions to the alternate Trustees which will provide for the management and distribution of the trust assets upon the Grantor's death. These directions are similar to those found in a Last Will and Testament and can provide for the immediate distribution of the trust assets to beneficiaries or for the distribution of assets to heirs over a period of time specified by the Grantor.

Does a Living Trust avoid probate?

One of the advantages of a Living Trust is probate avoidance. Assets that are held by the trust will be distributed after the death of the Grantor pursuant to the directions contained in the Living Trust and will not be subject to the probate process. Avoidance of the probate process will save time, attorney's fees, and administrative fees. Avoidance of the probate process will provide confidentiality for the Grantor and the beneficiaries as the Living Trust does not become public record.

Does the Grantor retain control over the Living Trust?

Generally, the Grantor retains the full right to control and manage the Trust assets during the Grantor's lifetime. The Grantor, while serving as Trustee, may utilize the Trust assets or invest them in any manner that the Grantor deems appropriate.

The Grantor also reserves the right to change any term or provision of the Trust or to revoke the Trust at any time.

How do assets become Trust property?

During the Grantor's lifetime, assets may be transferred into the trust by changing title to the assets. Assets may also be transferred into the trust upon the death of the grantor by naming the Trust as the "Transfer on Death" or "Pay on Death" beneficiary of the assets.

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